

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KENNETH A. ROBERTS,

Petitioner,

v.

DEB McCULLOCH,

Respondent.

ORDER

13-cv-446-jdp

Petitioner Kenneth A. Roberts is a patient civilly committed at the Sand Ridge Secure Treatment Center pursuant to Chapter 980 of the Wisconsin Statutes. On August 13, 2014, I denied Roberts's petition for a writ of habeas corpus under 28 U.S.C. § 2254 after determining that he failed to show that his due process rights were violated by the state courts. Petitioner filed a notice of appeal and requested leave to proceed *in forma pauperis*. In a September 18, 2014 order, I concluded that petitioner was required to submit a resident account statement so I could assess him an initial partial payment of the \$505 appellate filing fee.

Currently before the court is petitioner's motion for reconsideration of that determination. In his motion, petitioner argues that because is not a prisoner subject to the Prison Litigation Reform Act, he should not have to prepay any portion of the appellate filing fee. Although petitioner is correct that the PLRA does not apply to him, this court's policy of calculating an initial partial payment of filing fees for non-prisoners attempting to proceed *in forma pauperis* in cases such as this has long been approved by the Court of Appeals for the Seventh Circuit. *Longbehn v. United States*, 169 F.3d 1082, 1083 (7th Cir. 1999) ("Partial-

payment requirements remain appropriate even when the PLRA does not apply—perhaps because the plaintiff is not a prisoner, perhaps because the suit is not a ‘civil action’ and therefore is outside the PLRA even when the litigant is a prisoner.”). Accordingly, I will deny petitioner’s motion for reconsideration.

Notwithstanding petitioner’s motion, he has submitted a resident account statement. From the financial information in that statement, I conclude that petitioner qualifies for indigent status and owes \$33.03 as the initial partial payment of the \$505 appellate filing fee. Petitioner should show a copy of this order to institution officials to make sure they are aware that they should send petitioner’s initial partial payment to this court.

ORDER

IT IS ORDERED that:

1. Petitioner Kenneth A. Roberts’s motion for reconsideration of the court’s September 18, 2014 order, Dkt. 29, is DENIED.
2. Petitioner must prepay \$33.03 of the \$505 appellate filing fee as a condition of proceeding on appeal *in forma pauperis* no later than December 9, 2014. If petitioner fails to make the required payment or show cause for his failure to do so by this deadline, I will advise the court of appeals of his noncompliance in paying the assessed amount so that it may take whatever steps it deems appropriate with respect to this appeal.

3. The clerk of court is directed to ensure that the court's financial records reflect petitioner's obligation to pay the \$33.03 initial partial payment and the remainder of the \$505 fee.

Entered this 18th day of November, 2014.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge